IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

SUMMONS FOR JUDGMENT NO. 48 OF 2005
IN
SUM. SUIT NO.2063 OF 2004

Uco Bank — Plaintiff

vs.

Mary Rodriques — Defendant

Mr.Kedar Dighe with Mr.Vishal Khanavkar for the plaintiff.

Mr.Pankaj Vijayan i/b.Tushar Joshi for the defendant.

CORAM : S.U. KAMDAR,J.

DATED : 24th October 2005

P.C.

The present suit is filed for the recovery of an amount covered by the cheque which is in the sum of US Dollar 6,500.24 (equivalent to Indian Rs.3,03,091/-) with interest at the rate of 17% per annum. The claim in the present Suit is for Rs.4,76,865/-.

2. It is the case of the plaintiff Bank that the cheque for the aforesaid amount was handed over by the defendant as the cheque was drawn on the defendant and the cheque has been discounted and initiated through the Plaintiff Bank by the defendant. Ultimately the cheque has been dishonoured because the concerned Bank has contended that the cheque which has been handed over was actually issued to some third party. The defendant has fraudulently handed it over to the Plaintiff. It is not in dispute that in respect of the said cheque the amount

has been duly received by the defendant. From the tenor of the cheque, it is also clear that the defendant was holder in due course of the said cheque. In that view of the matter, on dishonour of the cheque, the defendant who was earlier holder in due course is liable to pay the aforesaid amount to the plaintiff herein. However, with a view to give opportunity to the defendants to defend the Suit, I direct the defendants to deposit a sum of Rs. 4 lacs in this Court within a period of four weeks from today failing which the plaintiff will be entitled to decree. The amount, if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court.

Summons for judgement disposed of accordingly.

3. Suit transferred to the list of Commercial Causes. Written statement or points of defence to be filed within four weeks from the date of deposit. Affidavit, list of documents to be filed within four weeks thereafter. Inspection and discovery within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.

(S.U. KAMDAR,J.)